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SUBJECT: TURKISH COURT OVERTURNS CONVICTIONS OF TWO ACCUSED
IN 2005 SEMDINLI BOOK STORE BOMBING

REF: A. 2006 ANKARA 3638

1B. 2006 ANKARA 409

1C. 2005 ANKARA 6772

Classified By: DCM Nancy McEldowney, reasons 1.4 (b) and (d).

11. (C) SUMMARY: A Turkish appeals court on May 16 overturned the convictions of two jandarma non-commissioned officers (NCO) indicted for their role in the November 2005 bombing of a bookstore in the southeastern city of Semdinli and ruled that the case should have been tried by a military court. The decision surprised and disappointed those who saw the indictment as a triumph of rule of law over military adventurism but was justified by others who claim that the accused were framed on flimsy evidence in an attempt to drive a wedge between the government and the military. The decision will be referred back to the originating court, which can accept or appeal it to a higher court. A military court could accept the case as a continuation of the original trial. While protests in the southeast followed the 2005 bombing, the reaction to the appeals court decision there has been disappointed resignation. END SUMMARY.

12. (SBU) In the latest twist of an already convoluted case, a Turkish Court of Appeals overturned the conviction of two jandarma NCOs who had been sentenced to 39 years and 5 months in prison -- the longest sentence ever meted out to law enforcement officers -- for their role in the November 9, 2005 bombing of a bookstore in the ethnically-Kurdish town of Semdinli in the southeastern Hakkari province (ref a). The NCOs were indicted together with a civilian labeled a PKK informant after weapons and documents -- including a supposed "hit list" -- linking them to the jandarma were found in their vehicle (ref c).

13. (C) In its decision, the appeals court ruled that the investigation into the bombing was flawed and that, because the NCOs are military police, the proper venue would have been a military court. Jandarma forces are commanded by a four-star general, GEN Isik Kosaner, whose previous position was Deputy Chief of the General Staff. However, except in times of war or in the event of Marshal Law, the jandarma are considered law enforcement officials who technically report to the Ministry of Interior. For that reason, the Legal Counsel to the Center for Eurasian Strategic Studies (ASAM) told us, the civilian court was the proper venue for the trial and the appeals court ruling was legally incorrect.

13. (C) Reaction in Hakkari province to the verdict was disappointment in a court system they had hoped would bring

justice to the bookstore owner killed in the attack and demonstrate that the military was not above the law. The Mayor of Semdinli, Hursit Tekin, said that citizens of the region were outraged that perpetrators who had been caught red-handed may go free, dashing their confidence in the judiciary. The DTP Mayor of Yuksekova, Salih Yildiz, called the decision undemocratic and a violation of the rule of law -- but expected. In Ankara, the reaction was mixed. The publisher of a weekly defense magazine (*Savunma ve Havacilik*) said the accused had been framed and the appeals court decision was the only way to rectify the verdict. The ASAM legal counsel agreed that the case was manufactured by those trying to harm the military's reputation. However, like several other lawyers we spoke with, he expressed discomfort with an appeals court decision which appeared blatantly political and not based in law. We are not aware of any reports of violence over the ruling.

¶4. (SBU) The original ruling court may choose to accept the appeals court verdict or send it to a higher appeals court for consideration. If the higher court agrees with the original ruling, the sentence will stand. If, however, it decides that the NCOs should be tried by a military court, the military will have to agree to accept the case. If they reject the case, it will go to the court of jurisdictional disputes for a decision. If the military does accept the case, the trial will be presented as a continuation of the civilian trial. In addition to trying the NCOs, the military court would also have to consider the case of the civilian PKK informant who was convicted and sentenced to 39 years and 10 months in prison. However, a ruling handed down by a military court over a civilian defendant could be challenged in the European Court of Human Rights. None of the lawyers we spoke with were willing to suggest the likely outcome of the case, but all agreed that the process would be long and may be designed to exceed the length of public interest.

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